

LEGISLATIVE BILL 298

Approved by the Governor May 29, 1987

Introduced by Goodrich, 20

AN ACT relating to schools; to amend section 79-1044, Reissue Revised Statutes of Nebraska, 1943, and sections 79-1032, 79-1041, 79-1045, 79-1048, and 79-1049, Revised Statutes Supplement, 1986; to provide for retirement contributions for prior service as prescribed; to redefine terms; to eliminate a restriction on membership; to change provisions relating to prior service contributions as prescribed; to eliminate provisions relating to compulsory retirement; to harmonize provisions; to repeal the original sections, and also section 79-1057, Revised Statutes Supplement, 1986; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. For one year from the effective date of this act, any person who withdrew his or her accumulated contributions pursuant to section 79-1049 prior to the effective date of this act, has again become an employee, and has not previously repaid all of his or her accumulated contributions pursuant to section 79-1049 may elect to repay any unpaid portion of these accumulated contributions to the retirement system for any number of years of creditable service which he or she accumulated prior to withdrawing his or her accumulated contributions. The amount to be repaid shall not exceed the amount of the withdrawal for the years of creditable service for which the repayment is being made plus the regular interest which would have accrued on that amount under the retirement system. Any person who repays such amount shall be restored to the same status for the years of creditable service for which repayment is made as he or she had prior to the withdrawal of the accumulated contributions.

Sec. 2. For one year from the effective date of this act, any person who was an employee of another school district prior to the effective date of this act, has joined or rejoined the retirement system, and has not previously paid into the retirement system a total of ten years of service in another school district may elect to pay the retirement system any unpaid portion of

such service up to a total of ten years. Such electing employee shall furnish satisfactory proof that he or she has been employed for such period of time by another school district and shall pay to the retirement system the total amount which he or she would have contributed to the retirement system had he or she been a member of the retirement system plus the regular interest which would have accrued on such amount during such period under the retirement system. Such contribution shall be based on the most recent years' salary the employee earned in another school district if the salary is verified by the other school district or, if not, on his or her annual salary at the time he or she became a member and shall be payable in total for the period of time, not exceeding ten years, for which such member requests such prior service credit. Any person who pays such amount shall be given credit for any number of years of service which he or she has elected to pay for, not to exceed ten years of service rendered as an employee in another school district, and shall be given the same status as though he or she had been a member of the retirement system for such number of years except as otherwise specifically provided in sections 79-1032 to 79-1060.

Sec. 3. For one year from the effective date of this act, any person who served in the armed forces as specified in subsection (1) of section 79-1043 or who was on a leave of absence as specified in subsection (2) of section 79-1043, has again become an employee, and has not previously paid into the system for all of the years of military service or leave of absence permitted by section 79-1043 may elect to pay into the retirement system for the total number of years of service authorized by section 79-1043 but not previously paid in. The amount to be paid in by the member shall be calculated as provided in section 79-1043. Any person who pays such amount shall be given credit for any number of years of service for which he or she has elected to pay, not to exceed the total number of years authorized by section 79-1043, and shall be given the same status as though he or she had been a member of the retirement system for such number or years except as otherwise specifically provided in sections 79-1032 to 79-1060.

Sec. 4. (1) The payments provided for by sections 1 and 2 of this act may be made in equal installments over a period of not to exceed two years from the date of the election to make such payments. The payments provided for by section 3 of this act may

be made in equal installments over a period of not to exceed three years from the date of election to make such payments. Any person who elects to make payments on an installment basis shall be credited with prior service only in six-month increments and only after payment has been made to the retirement system to purchase each additional six-month increment.

(2) Interest on delayed payments shall be at the rate of regular interest as defined in section 79-1032.

Sec. 5. That section 79-1032, Revised Statutes Supplement, 1986, be amended to read as follows:

79-1032. As used in sections 79-1032 to 79-1060 and sections 1 to 4 of this act, unless the context otherwise requires:

(1) Retirement system or system shall mean the School Employees' Retirement System of the School District of (name of city) as provided for in sections 79-1032 to 79-1060;

(2) Board shall mean the board of education of the school district;

(3) Trustee shall mean the trustees provided for in section 79-1034;

(4) Employee shall mean the following enumerated persons receiving compensation from the school district: (a) Regular teachers and administrators employed on a written contract basis; and (b) regular employees, not teachers, hired upon a full-time basis, which basis shall contemplate a work week of not less than thirty hours;

(5) Member shall mean any employee included in the membership of the retirement system or any former employee who shall have made contributions to the system and shall not have received a refund;

(6) Annuitant shall mean any member receiving an allowance;

(7) Beneficiary shall mean any person entitled to receive or receiving a benefit by reason of the death of a member;

(8) Membership service shall mean service on or after September 1, 1951, as an employee of the school district and a member of the system for which compensation is paid by the district;

(9) Prior service shall mean service rendered prior to September 1, 1951, for which credit is allowed under sections section 79-1044, and 79-1045, and service rendered by retired employees receiving benefits under preexisting systems, and service for which credit is

allowed under sections 2 and 3 of this act and sections 79-1043 and 79-1045:

(10) Creditable service shall mean the sum of the membership service and the prior service;

(11) Compensation shall mean salary or wages payable by the district;

(12) Military service shall mean service in the United States Army, Navy, Marine Corps, Air Force, Coast Guard, or any women's auxiliary thereof;

(13) Accumulated contributions shall mean the sum of amounts contributed by a member of the system together with regular interest credited thereon;

(14) Regular interest shall mean interest (a) on the total contributions of the member prior to the close of the last preceding fiscal year, (b) compounded annually, and (c) at rates to be determined annually by the board, which shall have the sole, absolute, and final discretionary authority to make such determination, except that the rate for any given year in no event shall exceed the actual percentage of net earnings of the system during such year;

(15) Retirement date shall mean the date of retirement of a member for service or disability as fixed by the board;

(16) Normal retirement date shall mean the end of the fiscal year during which the member attains age sixty-five;

~~(17) Compulsory retirement date shall mean the end of the fiscal year during which the member attains age seventy;~~

~~(18) Early retirement date shall mean that month and year selected by a member having at least ten years creditable service which includes a minimum of five years membership service and who has attained age fifty-five;~~

~~(19) (18) Retirement allowance shall mean the total annual retirement benefit payable to a member for service or disability;~~

~~(20) (19) Annuity shall mean annual payments, for both prior service and membership service, for life as provided in sections 79-1032 to 79-1060;~~

~~(21) (20) Actuarial tables shall mean:~~

(a) For retirement allowances at an early retirement date, a unisex mortality table using thirty per cent of the male mortality and seventy per cent of the female mortality from the 1951 Group Annuity Mortality Table with a One Year Setback and using an interest rate of five and seventy-five hundredths per cent compounded annually; and

(b) For joint and survivorship annuities, a unisex retiree mortality table using sixty-five per cent of the male mortality and thirty-five per cent of the female mortality from the 1951 Group Annuity Mortality Table with a One Year Setback and using an interest rate of five and seventy-five hundredths per cent compounded annually and a unisex joint annuitant mortality table using thirty-five per cent of the male mortality and sixty-five per cent of the female mortality from the 1951 Group Annuity Mortality Table with a One Year Setback and using an interest rate of five and seventy-five hundredths per cent compounded annually;

{22} (21) Actuarial equivalent shall mean the equality in value of the retirement allowance for early retirement or the retirement allowance for a joint and survivorship annuity, or both, with the normal form of the annuity to be paid, as determined by the application of the appropriate actuarial table, except that use of such actuarial tables shall not effect a reduction in benefits accrued prior to September 1, 1985, as determined by the actuarial tables in use prior to such date;

{23} (22) Withdrawal from service shall mean complete severance of employment of a member as an employee of the district by resignation, discharge, or dismissal; and

{24} (23) Fiscal year shall mean the period beginning September 1 in any year and ending on August 31 of the next succeeding year.

Sec. 6. That section 79-1041, Revised Statutes Supplement, 1986, be amended to read as follows:

79-1041. Any person, who becomes an employee on or after the date of establishment of the system, shall become a member of the retirement system upon employment. ~~7 PROVIDED; no person employed whose attained age at date of employment is sixty-five or over shall become a member of the system.~~ Contributions by such employee under sections 79-1032 to 79-1060 shall begin with the first payroll period after becoming a member and creditable service shall then begin to accrue.

Sec. 7. That section 79-1044, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1044. After the date of establishment of the system each member shall be credited annually with a retirement annuity of an amount equal to one and one half per cent of the salary or wage earned by him or her

during the then current fiscal year, not in excess of five thousand dollars, except ; PROVIDED, that (1) for each member who retires on or after August 31, 1969, such credit shall be an amount equal to one and sixty-five hundredths per cent of such salary or wage not in excess of five thousand dollars, AND PROVIDED FURTHER, that such credit and (2) for each member who chose the new system in 1951 and who retires on or after August 31, 1976, for service from September 1, 1951, to August 31, 1955, such credit shall be two and four-tenths per cent of such salary or wage not in excess of five thousand dollars, ; for service from September 1, 1955, to August 31, 1963, one and forty-four hundredths per cent of such salary or wage not in excess of six thousand dollars, ; for service from September 1, 1963, to August 31, 1969, one and forty-four hundredths per cent of such salary or wage up to the social security wage base, plus two and four-tenths per cent of salary or wage in excess thereof, ; and credit for service after September 1, 1969, shall be one and forty-four hundredths per cent of the first seventy-eight hundred dollars of such salary or wage and two and four-tenths per cent of the excess of such salary or wage over seventy-eight hundred dollars. With respect to service rendered prior to the date of establishment of the system, each employee in service or on leave of absence on said such date shall be entitled to an annuity on account of prior service. Such annuity shall be such percentage of the maximum annuity to which such member might have been entitled under the terms of a retirement plan previously in effect as the number of years of service under such plan bears to the total number of years for which credit for service might have been granted under such plan, except that ; PROVIDED, no credit shall be given in excess of the maximum annuity provided under such preexisting plan. The number of years of prior service for which credit shall be given under sections 79-1032 to 79-1060 this section shall be the number of years of service with which the employee is credited under such preexisting plan on May 21, 1951. The sum of these two annuities shall constitute the retirement allowance to which the member shall be entitled to be paid, beginning on his or her retirement date. Such annuity shall be paid in twelve equal monthly installments unless the amount thereof is less than ten dollars per month in which event payments shall be made quarterly or semiannually.

Sec. 8. That section 79-1045, Revised

Statutes Supplement, 1986, be amended to read as follows:

79-1045. In the event that any employee shall become a member without prior service credit, prior service credit for a period of not to exceed five ten years may be acquired by furnishing satisfactory proof that the employee has been employed for such period of time by a school district and by the payment by the member of the total amount, which he or she would have contributed to the system had he or she been a member of the system during such period, together with regular interest thereon as defined in section 79-1032, such contribution to be based on the most recent years' salary the employee earned in another school district if the salary is verified by the other school district or, if not, on his or her current annual salary at the time he or she becomes a member and payable in total for the period of time, not exceeding five ten years, for which such member requests such prior service credit, and by the payment into the fund by the school district of an equivalent amount. These amounts may be paid in installments over a period of not to exceed two years from date of membership. Interest on delayed payments shall be at the rate of regular interest as defined in section 79-1032.

Sec. 9. That section 79-1048, Revised Statutes Supplement, 1986, be amended to read as follows:

79-1048. (1) Any member with five or more years of creditable service, excluding years of prior service acquired pursuant to section 79-1043 or 79-1045 or section 2 or 3 of this act, who shall have become totally disabled for further performance of duty may be retired by the board. In the case of such retirement, the amount of annuity payable to the member shall be the annuity earned to date of disability retirement, except that payments for disability shall be reduced by the amount of any periodical payments to such employee as ~~worker's~~ workers' compensation benefits. The board shall consider a member to be totally disabled when it shall have received an application by the member and a statement by at least two licensed and practicing physicians designated by the board certifying that the member is totally and presumably permanently disabled and unable to perform his or her duties as a consequence thereof.

(2) The disability benefit, referred to in subsection (1) of this section, shall begin to accrue from the date of the first of the two examinations by

which the member is determined to be totally disabled, shall be payable during the time the member shall not receive any wages or compensation for services, and shall continue until the time any one of the following events first occurs: (a) When disability ceases; (b) the normal retirement date; or (c) the member has been found to be engaged in gainful employment from which he or she has received more than one hundred dollars per month. The board may require periodical proof of disability and nonemployment or permissible employment, but not more frequently than semiannually. Any member whose disability benefits shall cease because of such member having reached the normal retirement date shall upon such date be entitled to the retirement allowance without reduction for amounts paid on account of disability, but without credit for service during the period of disability.

Sec. 10. That section 79-1049, Revised Statutes Supplement, 1986, be amended to read as follows:

79-1049. A member who has five years or more of creditable service, excluding years of prior service acquired pursuant to section 79-1043 or 79-1045 or section 2 or 3 of this act, and who shall sever his or her employment may elect to leave his or her contributions in the system, in which event he or she shall receive a retirement allowance at normal retirement age based on the annuity earned to the date of such severance. Such member may elect to receive a retirement allowance at early retirement age if such member qualifies for early retirement as defined in section 79-1032. Such annuity shall be adjusted in accordance with section 79-1044.01. Upon the severance of employment, except on account of retirement, a member shall be entitled to receive refunds as follows: (1) An amount equal to the accumulated contributions to the system by the member; and (2) any contributions made to a previously existing system which were refundable under the terms of that system. Any member receiving a refund of contributions shall thereby forfeit and relinquish all accrued rights in the retirement system including all accumulated creditable service, except that if any member who has withdrawn his or her contributions as provided in this section shall reenter the service of the district ~~within a period of five years from the date of withdrawal~~ and again become a member of the system, he or she may restore all money previously received by him or her as a refund, including the regular interest for the period of his or her absence from the district's

service, and he or she shall then again receive credit for service which he or she forfeited by the acceptance of such refund. Such restoration can be made in equal installments over a period of not to exceed two years from the date of reemployment. Interest on delayed payments shall be at the rate of regular interest as defined in section 79-1032.

Sec. 11. Sections 1 to 4 of this act and the changes made to sections 79-1032, 79-1041, 79-1044, 79-1045, 79-1048, 79-1049, and 79-1057 by this legislative bill shall not apply to employees retiring prior to the effective date of this act.

Sec. 12. That original section 79-1044, Reissue Revised Statutes of Nebraska, 1943, and sections 79-1032, 79-1041, 79-1045, 79-1048, and 79-1049, Revised Statutes Supplement, 1986, and also section 79-1057, Revised Statutes Supplement, 1986, are repealed.

Sec. 13. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.